S.B. CIVIL WRIT PETITION NO.4889/2005

Salauddin vs. MACT, Udaipur & others.

Date : 21.9.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. SP Sharma, for the petitioner.

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Heard learned counsel for the petitioner.

The petitioner has preferred the present writ petition against the ex-parte award dated 5.7.2003 and also submitted an application under Order 9 Rule 13 CPC before the Motor Accident Claims Tribunal, Udaipur.

This Court, while issuing notice by order dated 18.8.2005 directed the Tribunal to decide the application filed by the petitioner for setting aside the ex-parte award.

According to learned counsel for the petitioner, the said application has already been dismissed.

In view of the above, no relief can be granted in this writ petition, unless the order passed on application under Order 9 Rule 13 CPC is challenged. The petitioner's application for amending the writ petition cannot be allowed in view of the fact that entire new cause has accrued to the petitioner. To challenge the said order, the petitioner will have to raise new grounds and, therefore,

it will be proper for the petitioner to challenge the said order and he will also be free to raise all the grounds which he has raised in this writ petition in the new writ petition.

With the aforesaid liberty, this writ petition is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya